

1	Counsel listed on the signature page.		
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8	UNITED STATES DISTRICT COURT		
9	NORTHERN DISTR	DISTRICT OF CALIFORNIA	
10	SAN JOS	OSE DIVISION	
11	VOIP-PAL.COM, INC., a Nevada corpora-	7	
12	tion,	Case No. 5:18-cv-06216-LHK	
13	Plaintiff,	JOINT CASE MANAGEMENT STATE- MENT	
14	V.	Date: September 19, 2019	
15	APPLE INC., a California corporation,	Time: 1:30 p.m. Courtroom: 8, 4th Floor	
16	Defendant.	Judge: Honorable Lucy H. Koh	
17	VOIP-PAL.COM, INC., a Nevada corporation,		
18	Plaintiff,	Case No. 5:18-cv-07020-LHK	
19	v.		
20	AMAZON.COM, INC., a Delaware corpora-		
21	tion; AMAZON TECHNOLOGIES, INC., a Nevada corporation,		
22	Defendants.		
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		JOINT CASE MANAGEMENT STATEMENT Case No. 3:18-cv-06216-LHK	

Case No. 3:18-cv-06216-LHK Case No. 3:18-cv-07020-LHK

In accordance with Civil L.R. 16-10(d) and the Court's May 22, 2019 Case Management Order, Plaintiff VoIP-Pal.com, Inc. ("VoIP-Pal") and Defendants Apple Inc. ("Apple") and Amazon.com, Inc. and Amazon Technologies, Inc. ("Amazon") submit this Joint Case Management Statement in advance of the Case Management Conference scheduled for September 19, 2019. This Joint Case Management Statement addresses relevant updates since the parties' May 15, 2019 Joint Case Management Statement. (*See* Case No. 5:18-cv-06216 ("Apple Action"), ECF No. 79; Case No. 5:18-cv-07020 ("Amazon Action"), ECF No. 58; also attached hereto as Exhibit A.)

1. **Pending Motions**

Amazon and Apple's joint motion to dismiss VoIP-Pal's First Amended Complaints is fully briefed.¹ The motion contends that VoIP-Pal's First Amended Complaints should be dismissed in their entirety because the asserted patents fail to comply with 35 U.S.C. § 101. Apple and Amazon filed their joint motion to dismiss on June 5, 2019. (Apple Action, ECF No. 89.) On June 20, 2019, VoIP-Pal filed its corrected opposition to Defendants' motion to dismiss. (Apple Action, ECF No. 91.) Amazon and Apple filed their joint reply in support of their motion to dismiss on June 26, 2019. (Apple Action, ECF No. 92.)

On August 26, 2019, VoIP-Pal filed an administrative motion requesting leave to file a supplemental brief in further opposition to Defendants' motion to dismiss. (Apple Action, ECF No. 96.) Amazon and Apple filed their joint opposition to VoIP-Pal's administrative motion on August 29, 2019. (Apple Action, ECF No. 97.)

2. Claim Construction

The parties have fully briefed claim construction. VoIP-Pal filed its Opening Claim Construction brief on July 15, 2019. (Apple Action, ECF No. 93.) Amazon and Apple filed their joint Responsive Claim Construction brief on August 2, 2019. (Apple Action, ECF No. 94.) On August 9, 2019, VoIP-Pal filed its Reply Claim Construction brief. (Apple Action, ECF No. 95.) A claim construction hearing is set for September 19, 2019. (*See* Apple Action, ECF No. 85.)

¹ Following leave of the Court, VoIP-Pal filed its first amended complaint against Apple and Amazon on May 17, 2019. (Apple Action, ECF No. 81; Amazon Action, ECF No. 61.)

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The resolution of certain claim construction disputes are potentially case-dispositive; specifically, Defendants contend, *inter alia*, that each of the asserted claims are invalid as indefinite. (*See* Apple Action, ECF No. 94 at 4–9.)

The parties do not intend to present live testimony during the Claim Construction Hearing. (Apple Action, ECF No. 82 at 3.)

In lieu of a technology tutorial, the parties propose that they address any questions the Court may have regarding the subject matter of the Patents-in-Suit during the Claim Construction Hearing.

3. ADR Update

a. The Apple Action

Pursuant to ADR L.R. 3-5, the parties and counsel have reviewed the Court's ADR hand-book, discussed the available ADR procedures, and considered whether this case would benefit from an ADR procedure. Based on that discussion, the parties intend to stipulate to an ADR process at an appropriate time.

Apple believes that ADR would not be productive until the Court's ruling on Defendants' motion to dismiss and/or the Court's claim construction ruling, either one of which could resolve the case in its entirety.

b. The Amazon Action

As required by ADR L.R. 3-5, the Parties have reviewed the Court's ADR handbook, discussed the available ADR procedures, and considered whether this case would benefit from an ADR procedure. Based on that discussion, the parties intend to stipulate to an ADR process at an appropriate time.

Amazon believes that ADR would not be productive until the Court rules on Defendants' motion to dismiss and/or claim construction, either one of which could resolve the case in its entirety.

4. <u>Discovery</u>

On June 27, 2019, both Apple and Amazon served their respective Responsive Damages Contentions. To date, none of the parties have noticed any depositions.

5. Related Cases

a. IPR Petitions

Apple filed IPR petitions on all Patents-in-Suit on May 13, 2019. Those proceedings are captioned IPR2019-01003, IPR2019-01006, IPR2019-01008, and IPR2019-01009. The PTAB issued notices of filing date on May 23, 2019 for each petition. VoIP-Pal filed its responses to the petitions on August 23, 2019. The PTAB must decide whether to institute review in each of these proceedings on or before November 23, 2019.

b. Appeal of Related Cases Dismissed By This Court

The Apple Action and Amazon Action are related to cases that have been dismissed by this Court, including *VoIP-Pal.com*, *Inc. v. Apple Inc.*, Case No. 5:18-cv-06217-LHK (N.D. Cal.) (the "Related Apple Action"). (Related Apple Action, ECF No. 67.) The Court granted Apple's motions to dismiss on March 25, 2019 and entered judgment in favor of the defendants. (Related Apple Action, ECF No. 96.) VoIP-Pal filed a notice of appeal in the First Apple Action on April 24, 2019. (Related Apple Action, ECF No. 100.) VoIP-Pal filed its opening appellant's brief before the Court of Appeals for the Federal Circuit on July 9, 2019 (lead case captioned No. 19-1808). Appellees, including Apple, filed their appellees' brief on August 5, 2019.

6. Scheduling

The Court set a schedule for the Apple Action and the Amazon Action in its May 22, 2019 Case Management Order. (Apple Action, ECF No. 85.) Fact discovery closes on December 6, 2019. (*Id.*) The Court has set subsequent case deadlines up until a May 21, 2020 hearing on *Daubert* motions and dispositive motions. (*Id.*) Defendants do not believe that further case deadlines need to be set at this time.

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1	Dated: September 12, 2019	
2	MALEK MOSS PLLC	PERKINS COIE LLP
3	/s/ Kevin N. Malek	/s/ Daniel T. Shvodian
4	Kevin N. Malek (<i>pro hac vice</i>) 340 Madison Avenue, Floor 19	Daniel T. Shvodian (SBN 184576) 3150 Porter Drive
5	New York, New York 10173 (212) 812-1491	Palo Alto, CA 94304-1212 Telephone: (650) 838-4300
6	kevin.malek@malekmoss.com	Facsimile: (650) 838-4489 DShvodian@perkinscoie.com
7	CARLSON & MESSER LLP David Kaminski	Don'yourun'e perkinseore.com
8	J. Grace Felipe 5901 W. Century Boulevard Suite 1200	Attorneys for Defendants Amazon.com, Inc. and Amazon Technologies, Inc.
9	Los Angeles, California 90045	ana Amazon Technologies, Inc.
10	Tel: (310) 242-2200 Fax: (310) 242-2222	
	kaminskid@cmtlaw.com fe- lipeg@cmtlaw.com	
11	Attorneys for Plaintiff VoIP-Pal.Com, Inc.	
12	DESMARAIS LLP	
13		
14	/s/ Ameet A. Modi John M. Desmarais (SBN 320875)	
15	Ameet A. Modi (<i>pro hac vice</i>) Robert C. Harrits (<i>pro hac vice</i>)	
16	Michael J.X. Matulewicz-Crowley (pro hac vice)	
17	230 Park Avenue	
18	New York, NY 10169 Telephone: (212) 351-3400	
19	Facsimile: (212) 351-3401 jdesmarais@desmaraisllp.com	
20	amodi@desmaraisllp.com rharrits@desmaraisllp.com	
21	mmatuewicz-crowley@desmaraisllp.com	
22	Peter C. Magic (SBN 278917)	
23	101 California Street, Suite 3070 San Francisco, CA 94111	
24	pmagic@desmaraisllp.com	
25	Attorneys for Defendant Apple Inc.	
26		
27		
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1	ATTESTATION
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3	I, Kevin N. Malek, hereby attest that concurrence in the filing of this document has been
4	obtained from counsel for all of the applicable Defendants for whom signatures have been pro-
5	vided.
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7	By: _/s/ Kevin N. Malek
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